

---

## **INDIANA COMMISSION ON PROPRIETARY EDUCATION**

### *Board of Commissioners Meeting Memorandum*

**Date:** March 11, 2009

**From:** Jodi White, Administrative Director

**Subject:** Formal Hearing – Findings of Facts, Conclusions of Law

---

#### **Staff recommendation**

The commission staff recommends that the Board of Commissioners adopt the Conclusions of Law of the Administrative Law Judge, Janice E. Kreuscher, in the case of:

Christopher Bender, Petitioner

Vs.

Brown Mackie College - Fort Wayne, Respondent

The commissioners also have the option to modify, or order a new hearing in the matter.

#### **Background**

A status and scheduling conference was conducted on August 4, 2008, where deadlines were established for this action and a final hearing was scheduled for November 7, 2008. An oral order was issued followed by a written order on September 15, 2008. Mr. Bender ignored the deadlines for filing the pre-hearing documents despite having been notified in person and in writing of this requirement.

The college complied with all pre-hearing deadlines and filed a timely Motion for Decision Denying Petition for Review. Mr. Bender failed to respond to that Motion. Mr. Bender also failed to appear for the hearing on November 7, 2008. He made no contact with the ALJ or commission staff to seek a continuance of the matter. Representatives from the college, the ALJ and commission staff member, Jodi White, waited 30 minutes before adjourning.

The ALJ concluded that the petitioner, who had the burden of proof in the matter, was unable to do so by ignoring the order to appear. The ALJ ruled that Mr. Bender is not entitled to any relief from Brown Mackie College, Fort Wayne, Indiana.

#### **Supporting Documentation**

1. Respondent's Motion for Decision Denying Petition for Review
2. Recommended Findings of Fact and Conclusions of Law

Bender vs Brown Mackie College - Fort Wayne

BEFORE THE INDIANA COMMISSION  
ON PROPRIETARY EDUCATION

CHRISTOPHER BENDER,  
Petitioner,

v.

BROWN MACKIE COLLEGE - Ft. Wayne,  
Respondent.

No. 2008-CPE-003

**NOTICE OF SUBMISSION**

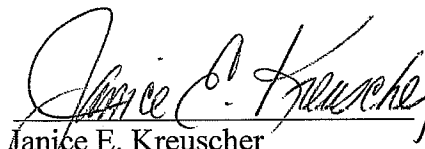
The attached Recommended Findings of Fact and Conclusions of Law have been submitted to the Commission on Proprietary Education.

Should you object to the Recommendation and oppose adoption of the Proposed Order, you must submit a written objection pursuant to Ind. Code Sec. 4-21.5-3-29 within fifteen (15) days of receipt of this notice to the Commission on Proprietary Education, 302 West Washington St., Room E201, Indianapolis, Ind. 46204-2767. Objections must be in writing and must identify the basis of the objection with reasonable particularity

Respectfully submitted,

Date:

Dec. 19, 2008

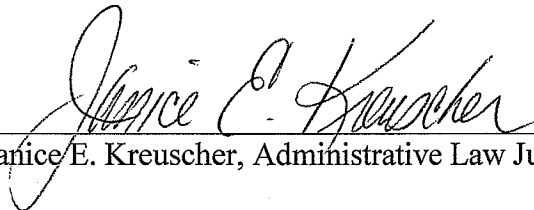
  
Janice E. Kreuscher  
Administrative Law Judge

### Certificate of Service

I certify on Dec. 19, 2008, I have served the foregoing documents by first class mail on the following persons at the addresses shown below:

James Bishop, President  
BROWN MACKIE COLLEGE  
3000 East Coliseum Blvd.  
Fort Wayne, Ind. 46805

Christopher Bender  
514 So. Johnson St.  
Garrett, Ind. 46739

  
Janice E. Kreuzer, Administrative Law Judge

BEFORE THE INDIANA COMMISSION  
ON PROPRIETARY EDUCATION

CHRISTOPHER BENDER, )  
Petitioner, )

v. )

No. 2008-CPE-003

BROWN MACKIE COLLEGE - Ft. Wayne,) )  
Respondent. )

**RECOMMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before the Indiana Commission on Proprietary Education ("Commission") on Petitioner's Request for Hearing filed in this cause on April 30, 2008. The Board appointed Administrative Law Judge ("ALJ") Janice E. Kreuscher in May 2008. A final evidentiary hearing was scheduled before the ALJ for November 7, 2008. Petitioner Christopher Bender ["Bender"] failed to appear despite his having been present at the August scheduling conference when the hearing was set. Respondent Brown Mackie College – Fort Wayne ["College"] was represented by Jeffrey Gulley, an attorney on the College's faculty, and Jim Bishop, College president. The ALJ, having fully considered the filings and evidence in this case, now makes the following recommended finding of facts, conclusions of law and resolution of the dispute.

**Findings of Fact**

***Statutory and Regulatory Scheme***

1. This proceeding is governed by the Administrative Orders and Procedures Act ["AOPA"]. Ind. Code §§ 4-21.5 *et seq.*

2. The Commission is charged with the duty and responsibility of regulating privately owned postsecondary vocational educational institutions. Ind. Code §§ 21-17 *et seq.*, formerly codified at §§ 20-12 and 20-1.

3. The Commission is charged with enforcing statutory standards set out in Ind. Code §§ 21-17-3-5(c), -13 and -18 *et seq* and resolving disputes between the institutions and students who claim they were damaged by noncompliance with those standards. If claims are not resolved informally, the Commission may conduct a hearing pursuant to AOPA. 570 IAC 1-6-3, 1-4-10; Ind. Code § 4-21.5-3.

4. The Board is empowered to appoint an administrative law judge to conduct hearings on its behalf. Ind. Code § 4-21.5-3-9(a)(3).

### ***Procedural Background***

5. On or about March 4, 2008, Bender filed a Record of Complaint with the Commission claiming the College had violated the statutory standards by failing to protect him from harassment by other students. His complaint also made numerous other allegations regarding the College and its ties to his ex-wife and a local hospital that suspended him from an externship. He sought a reimbursement of expenses, an apology and the dismissal of various instructors.

6. After notifying the College of the charges and reviewing the materials submitted by both parties, the Commission's director of regulatory compliance determined that Bender was not entitled to relief as to reimbursement of tuition or dismissal from the externship and lack jurisdiction over the other claims. The determination was issued on or about April 21, 2008.

7. In August 4, 2008, the parties met for a status and scheduling conference where deadlines were established in this action and the November 7 final hearing was scheduled. An oral order was issued which was followed by a written order on or about September 15, 2008.

Petitioner Bender was present at the August conference and confirmed the address he had on file with the Commission was correct. That address was used in sending the written order. The order, which was sent by first class mail, was not returned.

8. Despite having been notified both in person and in writing of the deadlines for filing pre-hearing documents -- contentions and preliminary witness and exhibit lists -- Bender ignored the deadlines. The College complied with all pre-hearing deadlines and filed a timely Motion for Decision Denying Petition for Review, including exhibits, on September 29, 2008. Bender failed to respond to that Motion.

9. This proceeding is essentially an appeal from the Commission's April 21st determination. The actual proceeding, however, was to be conducted *de novo* with neither party restricted to allegations or evidence included in the initial submissions before the Commission staff.

10. At 1 p.m. November 7<sup>th</sup>, the representatives from the College appeared for the hearing as did the ALJ and a representative of the Commission staff. Bender neither appeared nor made contact with the ALJ or Commission seeking a continuance. Those present for the hearing waited 30 minutes before adjourning.

### ***Factual Background***

11. No evidence was presented at the final hearing. The only evidence of record is contained in exhibits filed by the College with its Motion in October. That evidence shows that:

a. Bender was enrolled in a practical nursing program in the college in February 2007 and withdrew from the program in late December 2007;

b. The College has a tuition refund policy contained in its enrollment agreement, signed by Bender, that the policy complies with 570 IAC 1-8-6.5 and followed the policy in denying a refund of tuition to Petitioner;

c. The College has an established policy and procedure regarding grade appeals and followed that policy when Bender filed a grade appeal.

### **Conclusions of Law**

1. This proceeding is properly before the ALJ, pursuant to Ind. Code §§ 4-21.5 *et seq.*, and she has the authority and jurisdiction to hear and decide this case.

2. No procedural defect occurred in the hearing process.

3. Petitioner has the burden of proof in this matter and is required to prove his case by a preponderance of evidence.

4. In order to prove his case, Bender was required to show that the College violated statutory standards governing institutions overseen by the Commission.

5. Petitioner has failed to meet the burden in this case of proving by a preponderance of evidence that the College violated rule or law governing the postsecondary proprietary educational institutions or a duty owed students at such institutions.

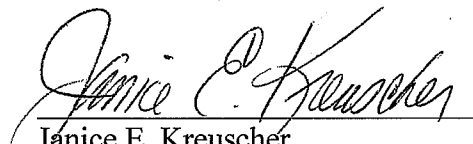
6. By not responding to the College's dispositive motion or introducing evidence at the final hearing, Bender has failed to prove his charges by a preponderance of evidence.

7. Alternatively, Bender should be defaulted for failure to comply with a valid pre-hearing scheduling order and failure to attend a hearing for which he had notice.

8. Therefore, Bender is entitled to no relief against the College.

8. All Findings of Fact which can be deemed Conclusions of Law will be considered Conclusions of Law, and all Conclusions of Law which can be deemed Findings of Fact will be considered Findings of Fact.

Respectfully submitted,

  
Janice E. Kreuscher  
Administrative Law Judge

Date: 12-19-08





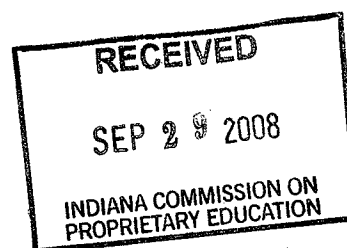
**BROWN MACKIE COLLEGE**

**FORT WAYNE**

*Founded as Michiana College*

*Personal Attention. Professional Growth*

Facsimile Transmission



September 29, 2008

Janice Kreuscher  
Administrative Law Judge  
State of Indiana Commission on Proprietary Education  
302 West Washington Street, Room 201E  
Indianapolis, IN 46204-2767

**Re: Christopher Bender v. Brown Mackie College – Fort Wayne**

To the Honorable Judge Kreuscher:

Enclosed is our Motion for Decision Denying Petition for Review in the matter of Christopher Bender v. Brown Mackie College – Fort Wayne.

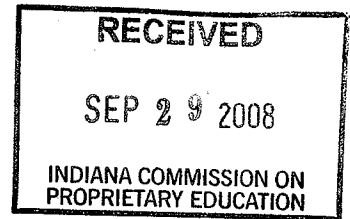
Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Jim Bishop".

Jim Bishop  
President  
Brown Mackie College – Fort Wayne  
(260) 481-5025

Cc: Mr. Christopher Bender  
514 South Johnson Street  
Garrett, IN 46739

BEFORE THE INDIANA COMMISSION  
ON PROPRIETARY EDUCATIONCHRISTOPHER BENDER  
Petitioner,

v.

No. 2008-CPE-003

BROWN MACKIE COLLEGE—Ft. Wayne,  
Respondent.RESPONDENT'S MOTION FOR DECISION DENYING PETITION FOR REVIEW

COMES NOW Respondent, Brown Mackie College—Fort Wayne, and files its Motion for Decision Denying the Petition for Review filed by the Petitioner in this cause. In support of its Motion, Respondent states and alleges as follows:

1. On March 4, 2008, Petitioner filed a Record of Complaint with the Indiana Commission of Proprietary Education ("Commission"), seeking the following relief: "[e]xpenses paid, instructors involved dismissed, Department chair removed, persuit [sic] of the truth and settlement for abuse and harassment and an apology in writing, outside influence uncovered."
2. By letter dated March 27, 2008, Respondent submitted requested information to Rebecca Carter, Director of Regulatory Compliance at the Commission. This information was responsive to the complaint filed by Petitioner.
3. On April 21, 2008, the Commission denied the complaint filed by the Petitioner, and in a letter to Petitioner stated that "...Brown Mackie College followed the school's procedures and policies in regard to your grade, denial of reimbursement of tuition and the fact that St. Joseph Hospital dismissed you from the externship program at its facility and Brown Mackie was not in a position to advocate on your behalf in order not to lose this facility as an externship site for future students in the nursing program."

4. Petitioner has not to date filed a List of Contentions designating which statutory or regulatory standards are implicated in this matter.

5. Respondent's tuition refund policy listed in the Enrollment Agreement (previously submitted as Exhibit A of its Preliminary Exhibit List), is in compliance with the requirements of 570 Ind. Admin. Code 1-8-6.5 (2002), and Respondent followed said policy in denying a refund of tuition to Petitioner.

6. Respondent followed the school's policies and procedures with regard to the grade appeal filed by the Petitioner as evidenced by the documents contained in Exhibit D of Respondent's Preliminary Exhibit List.

7. The complaint filed by Petitioner pursuant to 570 Ind. Admin. Code 1-14-8 (2003) is without merit as evidenced by the findings of the Commission and the documents provided by Respondent.

8. Based upon the evidence submitted in this matter, Respondent contends that there are no genuine issues of material fact, and that Petitioner is not entitled to the relief requested in the complaint as a matter of law.

WHEREFORE, Respondent prays that its Motion for Decision Denying Petition for Review be granted and for all other relief proper in the premises.

Respectfully submitted,



Jim Bishop  
President  
Brown Mackie College—Fort Wayne  
3000 East Coliseum Blvd.  
Fort Wayne, Indiana 46805

CERTIFICATE OF SERVICE

I, Jim Bishop, hereby certify that on 09/29/2008, a copy of the foregoing

Motion was mailed by U.S. first-class mail, postage prepaid, to the following parties:

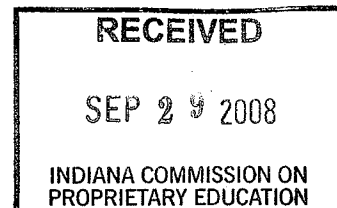
Mr. Christopher Bender  
514 South Johnson Street  
Garrett, IN 46739

Date:

09/29/2008

Jim Bishop

Jim Bishop



BEFORE THE INDIANA COMMISSION  
ON PROPRIETARY EDUCATION

CHRISTOPHER BENDER,  
Petitioner,

v.

BROWN MACKIE COLLEGE - Ft. Wayne,  
Respondent.

No. 2008-CPE-003

**SCHEDULING ORDER**

1. On August 4, 2008, a status and scheduling conference was held in the above-captioned case. Petitioner appeared in person and Respondent was represented by Jim Brown, President of Brown-Mackie College in Fort Wayne.

2. The following scheduling order was established:

a. No later than **Sept. 8, 2008**, each party was to file a List of Contentions, designating which statutory or regulatory standards are implicated; a Preliminary Witness List, designating the identity of each witness and scope of testimony, and a Preliminary Exhibit List and Respondent was to file a copy of the contract between it and Petitioner and a course description;

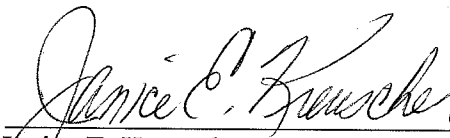
b. By **Oct. 1, 2008**, the parties may file any dispositive motions with responses due no later than **Oct. 13, 2008**;

c. On **Oct. 27, 2008**, the parties shall exchange copies of the exhibits that they intend to introduce at the final hearing and shall file Final Witness Lists..

d. Final hearing is set for **Nov. 7, 2008**, at **1 p.m.** in the Indiana Government Center South, in a room to be announced at a later date.

Entered this 15th day of September 2008.

By:

  
Janice E. Kreuscher, 5565-49  
Administrative Law Judge

Distributed:

Christopher Bender  
514 So. Johnson St.  
Garrett, Ind. 46739

James Bishop, President  
BROWN MACKIE COLLEGE  
3000 East Coliseum Blvd.  
Fort Wayne, Ind. 46805

BEFORE THE INDIANA COMMISSION  
ON PROPRIETARY EDUCATION

CHRISTOPHER BENDER,

Petitioner,

v.

BROWN MACKIE COLLEGE - Ft. Wayne,

Respondent.

No. 2008-CPE-003

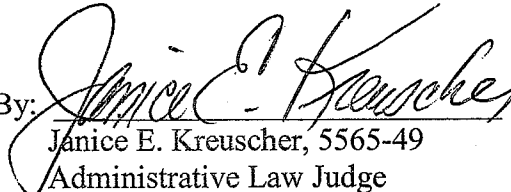
**NOTICE OF APPOINTMENT and  
ORDER SETTING STATUS CONFERENCE**

1. On or about May 2, 2008, this case has been assigned to Janice E. Kreuscher, who will serve as Administrative Law Judge, pursuant to Indiana Code §§ 4-21.5 et seq.

2. A status conference is hereby scheduled for Friday, **July 18, 2008**, at the Indiana Government Center South, 402 West Washington St., Indianapolis, in a conference room TBA, at 1 p.m. Representatives for each party should be prepared to discuss the status of the case, any anticipated motions or preliminary issues, the potential of settlement and be prepared to establish a scheduling order and hearing dates.

Entered this 16th day of June 2008.

Respectfully submitted,

By:   
Janice E. Kreuscher, 5565-49  
Administrative Law Judge

Distributed to:

Christopher Bender  
514 So. Johnson St.  
Garrett, Ind. 46739

James Powell, President  
BROWN MACKIE COLLEGE  
3000 East Coliseum Blvd.  
Fort Wayne, Ind. 46805

# Memorandum

**To:** Jan Kreuscher  
Administrative Law Judge

**From:** Rebecca L. Carter  
Director of Regulatory Compliance

**Date:** May 16, 2008

**Re: REQUEST FOR AN ADMINISTRATIVE HEARING**

---

In accordance with 570 IAC 1-14-10 (3) (4) **Chris Bender**, who attended **Brown Mackie College – Fort Wayne** has requested an Administrative Law Judge hearing concerning the ICOPE determination in favor of the institution. Mr. Bender had filed a formal complaint against this school according to 570 IAC 1-14-10.

Enclosures

April 30, 2008

State of Indiana Commission on Proprietary Education  
302 West Washington Street  
Room E201  
Indianapolis, IN 46204-2767  
<http://www.in.gov/cope>

Dear COPE,

After reviewing the response of the commission staff, I am requesting a formal hearing following due process of a prehearing date followed up by a formal hearing concerning Brown Mackie of Fort Wayne Indiana.

Thank you for your speedy attention to this matter.

Sincerely,

Chris Bender





# STATE OF INDIANA

COMMISSION ON  
PROPRIETARY EDUCATION

302 West Washington Street  
Room E201  
Indianapolis, IN 46204-2767  
<http://www.in.gov/cope>

April 21, 2008

CERTIFIED MAIL

MR CHRISTOPHER BENDER  
514 S JOHNSON ST  
GARRETT IN 46739

Dear Mr. Bender:

The commission staff has concluded its review of the formal complaint that submitted as well as the written response from **Brown Mackie College – Fort Wayne**.

It is the staff's determination that Brown Mackie College followed the school's procedures and policies in regard to your grade, denial of reimbursement of tuition and that fact that St. Joseph Hospital dismissed you from the externship program at its facility and Brown Mackie was not in a position to advocate on your behalf in order not to lose this facility as an externship site for future students in the nursing program.

In reference to the student complaints that the school allegedly received pertaining to you, the commission has no jurisdiction pertaining to this issue.

If you desire administrative review of this decision, you must file a written petition at the above address with the Indiana Commission on Proprietary Education identifying the reason for the review. This petition must be postmarked by no later than twenty (20) days from the date of this notice.

If you file a petition for review, a proceeding will be scheduled and conducted by an administrative law judge appointed by the commission. If you do not file a petition for review within that time period, then this action will be final without further review.

Sincerely,

REBECCA CARTER  
Director of Regulatory Compliance

RLC/me

Cc: Brown Mackie College – Fort Wayne

Date March 27, 2008

Rebecca Carter  
Director of Regulatory Compliance  
Indiana Commission on Proprietary Education  
302 W Washington Street, Room E201  
Indianapolis, IN 46204

Re: Complaint of Christopher L. Bender

---

Dear Ms. Carter:

I write to respond to your letter of March 6, 2008 in which you request information responsive to the complaints of Christopher Bender. Mr. Bender complains that he was subject to social harassment which culminated with his being wrongfully accused of being under the influence of alcohol at his site.

Our records indicate that Christopher Bender was enrolled as a Practical Nursing student at the Fort Wayne Campus of Brown Mackie College in December 2007. On December 20, 2007, Mr. Bender was working at his month-long clinical site at St. Joseph Hospital in Fort Wayne, Indiana, when Sherry Hart, Unit Director at the Hospital and Stacie Dobson, a Brown Mackie College faculty member at the hospital, both smelled a strong odor on him. The hospital director indicated that he could not be on the unit, and, therefore, was sent home and told that he could discuss the issue further with College representatives.

Later that same day at the College, Mr. Bender met with Dean Jim Bishop, Practical Nursing Program Director Melissa Carmona, and Practical Nursing academic advisor Tracie Hopkins. Mr. Bender denied the allegation that he had reported to his clinical site under the influence of alcohol. Dean Bishop explained to Mr. Bender that the College had no control over the decisions of the hospital clinical site and that the site was free to ban anyone it chose. Dean Bishop explained that Mr. Bender could repeat his clinical training at another location with the next month's rotation, but he would not be permitted to return to Saint Joseph's.

Also on December 20, 2007, Mr. Bender officially withdrew from the College, but he did not list a reason for his withdrawal (see Attachment 1 – Official Withdrawal Form). Mr. Bender received a grade of WF for PN2150, which is the obstetrics clinical training course. A WF stands for withdraw fail, which is the grade given pursuant to the College's catalog policy when a student withdraws after the first two weeks (midterm) of the four-week long course.

Subsequent to his withdrawal from the Brown Mackie Fort Wayne campus, Mr. Bender enrolled at our Merrillville, Indiana, campus where he remains on active status in the Practical Nursing program.

**RECEIVED**

**MAR 28 2008**

From December 26, 2007, through January 8, 2008, Mr. Bender contacted Dean Bishop and other College employees at least 18 times through lengthy e-mails of roughly three pages each. Mr. Bender's complaints centered on three different issues:

- His desire to follow through with a grade appeal,
- His request for reimbursement of tuition, and
- His request that Brown Mackie intervene on his behalf with St. Joseph Hospital to allow his return.

Dean Bishop responded to Mr. Bender's various communications by (1) appointing a committee to hear his grade appeal; (2) explaining that his tuition refund request was not supported by circumstances which merited return of his tuition under our tuition refund policy and (3) explaining that Brown Mackie College had no authority over St. Joseph Hospital and could not intercede on his behalf. He also explained that Mr. Bender could return to College to repeat the clinical course at a different location.

The grade appeal committee composed of Legal Studies Department Chair Charlotte A. Weybright, full-time general education instructor Dennis Kirchner, and full-time Practical Nursing lead instructor Johanna Bakehorn, met on January 18, 2008, to review Mr. Bender's appeal. The committee reviewed communications from Mr. Bender as well as relevant programmatic documents and the College's catalog. After reviewing all materials and following a discussion of the issues, the Committee denied the appeal, finding that the WF was appropriate grade for his clinical. A letter informing Mr. Bender of the denial was sent on January 22, 2008 (see attachment 2 – Grade Appeal letter).

Mr. Bender's status at the Fort Wayne Brown Mackie campus shows as "withdrawn" and his status at the Merrillville Brown Mackie campus shows as "active."

Mr. Bender also references complaints other students made about him. I responded in detail to ICOPE's request for information about our response to the students' complaints about Mr. Bender on September 19, 2007, in a letter to Commissioner Jeff Weber. Should you like a copy of that letter, please let me know. I would be happy to answer any additional questions that you may have. Thank you for giving us an opportunity to respond.

Sincerely,



James Powell

President

Brown Mackie College - Fort Wayne

Enclosures: Copy of Official Withdrawal form signed by Christopher Bender  
Copy of letter informing Christopher Bender of denial of grade appeal

# Brown Mackie College Withdrawal Form

Any student who withdraws from the college is required to have a formal meeting with his or her program's Department Chair prior to meeting with a Financial Aid Officer and the Dean.

Before withdrawing you should consider the following negative consequences: possible immediate payment of debt, possible loss of current and/or future financial aid, no guarantee of class availability upon re-entry, and the possibility of a nine month wait before reenrollment.

Date: 12/20/07 Current Class: PN4200 Date of Enrollment: \_\_\_\_\_  
Student: Christopher Bender SSN: 311-80-5462  
Program: PN  
Address: 514 S Johnson St.  
City: Gavett State: IN Zip: 46238  
Phone: 260-357-5714 Email: chr5561-561@yahoo-com

\*\*\*\*\*  
Please circle the number(s) that best describe your reason(s) for withdrawing, and provide a short summary of the concern or issue.

- |   |               |
|---|---------------|
| 1. Course required too much time.             | 5. Employment |
| 2. Course content was not what I expected.    | 6. Personal   |
| 3. Course was more difficult than I expected. | 7. Medical    |
| 4. Could not maintain interest                | 8. Financial  |

Comments:

The following signatures are required:

Melissa Kampa 12/28/07  
Department Chair Date

John Bishop 12/20/07  
Academic Dean Date

Business Officer \_\_\_\_\_ Date \_\_\_\_\_  
Christopher Bender 12/20/07  
Student Date

Financial Aid \_\_\_\_\_ Date \_\_\_\_\_

Distribution: Copies: Department Chair  
Academic Dean  
Financial Aid  
Original: Student Academic File

**Attachment 1**  
(Official Withdrawal Form)



January 22, 2008

Mr. Christopher Bender  
514 S. Johnson St.  
Garrett, IN 46738

RE: Grade Appeal – PN 2150 – Needs of the Reproductive Client  
Lee Marki, Instructor

---

Grade Appeal Committee: Charlotte A. Weybright, Chair  
Dennis Kirchner, Instructor  
Johanna Bakehorn

---

Dear Mr. Bender:

The members of the grade appeal committee met Friday, January 18, 2008, to review the documentation provided by you in reference to your grade appeal request to change your grade of "WF" to a "WP." The Committee also reviewed the PN 2150 course syllabus and the Brown Mackie Catalog.

The change cannot be done for two reasons.

First, the Brown Mackie Catalog states on Page 67 under Grading System for Practical Nursing that:

A student who withdraws from a course within the first two weeks of that course receives a *Withdrawn, without penalty (W)* for the course. After the first two weeks, withdrawal incurs a *W* or a *Withdrawn, with penalty (WF)*.....

Your official withdrawal was signed on December 20, 2008, two days before the class was completed; thus your withdrawal falls within the last two weeks of the course making it subject to the "WF" and not the "WP."

Second, your course syllabus states:

V. Clinicals

There will be no clinical make-ups for this course. Failure to attend a clinical day will result in failure of the course.

**Attachment 2**  
(Letter denying grade appeal)

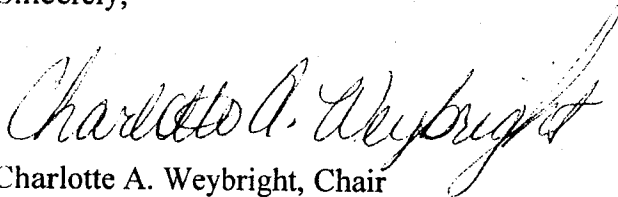
Mr. Christopher Bender  
January 22, 2008  
Page 2

According to our understanding of the situation from your communications and the hospital personnel involved, you were asked to leave the clinical site. You then withdrew from the College that same day, thus you failed to attend the clinical for that day which resulted in a failure according to the course syllabus.

Based on our review of your communications, the course syllabus, and the catalog, the committee must deny your appeal to change the "WP" to a "WF."

We sincerely wish the best of success in your future endeavors.

Sincerely,

A handwritten signature in cursive script, reading "Charlotte A. Weybright". The signature is written in dark ink and is positioned above the printed name and title.

Charlotte A. Weybright, Chair  
Grade Appeal Committee

Cc: Student File



# STATE OF INDIANA

COMMISSION ON  
PROPRIETARY EDUCATION

302 West Washington Street  
Room E201  
Indianapolis, IN 46204-2767  
<http://www.in.gov/cope>

March 6, 2008

CERTIFIED MAIL

MR JAMES POWELL PRESIDENT  
BROWN MACKIE COLLEGE  
3000 E COLISEUM BLVD  
FORT WAYNE IN 46805

Dear Mr. Powell:

A copy of a written complaint pertaining to **Brown Mackie College – Fort Wayne** was submitted to the commission by **Christopher L. Bender**, a former student enrolled at your institution.

You are directed to review the allegations addressed in the complaint and to respond in writing by **Thursday, March 20, 2008**. If pertinent to this case, documentation should be provided to support your position.

Sincerely,

REBECCA CARTER  
Director of Regulatory Compliance

RLC/me

Enclosure: complaint form from Christopher Bender

**RECORD OF COMPLAINT**

State Form 39280 (R2/0-01)

**Instructions:**

1. Please **PRINT** or **TYPE**.
2. Upon Completion, Send this form to:  
**Indiana Commission on Proprietary Education**  
**302 W Washington St RM E201**  
**Indianapolis IN 46204**

Name of student	Date
Christopher L Bender	03/04/2008
Address (number and street)	
514 S Johnson Street	
City, State, ZIP code	
Garrett, Indiana 46738	
Signature of student	Telephone number
	260-357-5714

Name of school			Location of school	
Brown Mackie College Nursing School			Fort Wayne, Indiana	
Name of salesperson			How were you contacted?	
Do not remember			telephone	
Date contract signed	Amount	Balance owed.	Date you began class	Date attendance ended
02/01/2007	\$ 15,000	\$ 2,000	02/04/2007	12/28/2007

What relief are you seeking?

Expenses paid, instructors involved dismissed, Department chair removed, persuit of the truth and settlement for abuse

and harassment and an apology in writing outside influence uncovered  
Describe below, in detail, the events leading to this complaint. (Use reverse side if additional space is needed.)

Details will be presented that a group of students continued to abuse and harass me over an extended period of 9 to 11 months while I was a student at Brown Mackie College in Fort Wayne, Indiana, which caused me extensive problems with clinical instructors. Classroom instructors as well participated by allowing these students to vocalize abuse and harassment toward me leaving it go unreported. All were made abundantly aware of the problem, but no one seemed to want to put an end to what was going on. I was accused of many things that never occurred such as drinking at a clinical site and telling lies about the extent of my training as a student. Under these accusations, I was never offered a blood alcohol test and was instructed to drive back to the school where I learned I was to be suspended for what amounted to false accusations. I obtained a blood alcohol test from my physician and the negative results will be furnished as well as her expert testimony regarding the months I endured at Brown Mackie College in Fort Wayne. I was also assaulted by a student and was instructed by an instructor that should I choose to dial 911 in the event he did it again, she would fail me thus preventing me from seeking a safe and legal means of protecting myself at a clinical site from the onslaught of said students. Another instructor demanded that I change my clothes into jeans at a clinical site, even though I had permission from the Dean to wear jeans while using my motorcycle for transportation during the summer months. I was failed prior to the last clinical day, but the instructor did not have any conversations with me and had me participate during the entire clinical in the locked unit, while he ignored my performance. Many instructors during the OB clinical attacked me in what I believe is a conspiracy to have me removed permanently from Brown Mackie Colleges by the department chair Malisa Cardoma and Lisa Harris and perhaps Lee Marki. I simply reported malfunctioning equipment that put patients at risk, which began the onslaught from these clinical instructors mainly Josie Heckler. All of them were involved and I was barred from returning to the hospital to complete my clinical requirements under false pretences. In addition, vital information was kept from me as before I entered the program at Brown Mackie in Fort Wayne, I told my academic advisor Mr. Walton about the actions of my ex wife and what she would stoop to if she learned that I enrolled in a Nursing College in the Fort Wayne Medical Community. However, already in motion without my knowledge, she resigned her position at Brown Mackie in Fort Wayne claiming I was only trying to harass her from another job. I also learned she was working at the hospital where the OB clinicals took place and she made her presence known on my departure that day.



Her presence left absolutely no doubt in my mind that she participated and since she was a former employee of Brown Mackie College, I have no doubt she influenced perceptions of me with students and staff. While everyone has the right to carry any perception they wish, it's when they act out on it and cause damage to an individual that rights are violated. These students, even with the help of a group dynamic professional employed by the school, demonstrated they would stop at nothing to smear me within the entire student body. While some students, the silent minority, expressed to me their outrage that such behavior went on unchallenged and that it was affecting their college experience, absolutely no one out of fear directly related to how I was treated by staff and administration, had the courage to stand up for what they believed was right. This group of students continued to push me socially and even accused me of being the next Virginia Tech psycho and I had students running from me in the halls and on the stairs. While I do not subscribe to violence or condone its use in any way, I protest the actions of these students in the sense that many students have demonstrated their willingness to crack and commit violent acts under much less pressure than what I was placed under. The Dean himself validated what these students were doing to me and even said the stress I must have been under was inhumane. So why did he let it continue until I was finally accused of things I did not do in order to finally get rid of me? I do believe these students were attempting to get me to crack under any means possible through social harassment and ridicule, bashing and hateful discussions on a daily basis during class, in the halls, in the parking lot and at clinical sites with instructors. I honestly believe that by allowing these students to continue and the instructors and department chair to continue is dangerous to the medical field as they seem to have intentions to cultivate the wrong type of individual who use hate to lash out at someone making it impossible for any realistic solution to be derived. I can't imagine any institution responsible for releasing safe medical professionals allowing the behaviors I witnessed to occur. Not only has this school violated me as an individual, but they are also in violation of their accreditation with the Indiana State Board of Nursing. I sincerely hope that justice prevails.